

Report of:	Meeting	Date	Item no.
Councillor Peter Murphy, Planning and Economic Development Portfolio Holder and Garry Payne, Chief Executive	Cabinet	7 September 2016	9

<b>Neighbourhood Planning Delegation Arrangements</b>
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**1. Purpose of report**

1.1 To consider a scheme of Delegation for Neighbourhood Planning.

**2. Outcomes**

2.1 To provide up to date and effective governance arrangements in relation to the Neighbourhood Planning process.

**3. Recommendation**

3.1 That the delegations in relation to the various stages of the preparation of a Neighbourhood Development Plan and a Neighbourhood Development Order, set out in Appendix A be approved and that Part 7.02 of the Council's Constitution (Scheme of Delegation) be updated accordingly.

**4. Background**

4.1 Neighbourhood Planning is a way for communities to shape the future of the places where they live and work. Neighbourhood Planning provides a set of tools for local people that allows communities to set planning policies through a Neighbourhood Development Plan or grant planning permission through a Neighbourhood Development Order. A Neighbourhood Plan cannot be used to prevent or stifle development.

4.2 The Neighbourhood Planning provision is set out in the Localism Act 2011 which amended the Town and Country Planning Act 1990. The Neighbourhood Planning (General) Regulations 2012 and as amended 2015 sets out the detailed arrangement that Neighbourhood Plans should follow.

- 4.3** The Parish/Town Council will be the qualifying body for producing a Neighbourhood Plan. In an area where there is no Parish/Town Council, a neighbourhood forum can be established, providing the forum consists of a minimum of 21 individuals who live, work, or represent the area and meets the requirements of Part 3 of The Neighbourhood Planning (General) Regulations 2012. This is undertaken by an application to the local planning authority. In determining the application, the local planning authority must publicise the application for at least six weeks and have regard to representations received.
- 4.4** At the start of the Neighbourhood Planning process, the Regulations require the responsible body to identify the area which they intend to produce a Neighbourhood Plan for. This is undertaken by a Neighbourhood Area application to the local planning authority. In determining the application, the local planning authority must publicise the application and have regard to representations received.
- 4.5** The Neighbourhood Plan will also undergo a number of public consultation stages as part of preparing the Plan. The qualifying body will be required to undertake a public consultation on the draft Plan before submitting it to the local planning authority for examination. The local planning authority will have an opportunity to submit representations to the qualifying body at this stage.
- 4.6** Following consideration of the representations to the consultation, the qualifying body will finalise the Plan. This submission version will be submitted to the local planning authority for examination, along with other supporting documents in accordance with the Regulations. The local planning authority will be required to consult on the submission draft for at least six weeks. The local planning authority, with the agreement of the qualifying body will appoint a suitably qualified independent examiner. The Neighbourhood Plan along with the supporting documents and representations received at the submission consultation stage will be considered by the examiner. It is also considered best practice for the local planning authority to submit representations at the submission stage.
- 4.7** The examination process will typically be undertaken via written representations unless the examiner considers a hearing to be necessary. Following receipt of the examiner's report, the local planning authority will have to consider the recommendations of the examiners' report, including whether the Plan meets the basic conditions and whether it can proceed to referendum. The basic conditions are:
- Has regard to national policies and advice;
  - Contributes to the achievement of sustainable development;
  - Is in general conformity with the strategic policies contained in the development plan for the area of the authority;
  - Does not breach and is otherwise compatible with EU obligations;
  - Prescribed conditions are met in relation to the Order or Plan and the prescribed matters have been complied within;

- Has special regard to the desirability of preserving any listed building or its setting or any feature of special architectural or historic interest that it possesses (this applies only to Orders);
- Has special regard to the desirability of preserving or enhancing the character or appearance of any conservation area (this applies only to Orders);

It is not for the local planning authority to consider the substance of policies.

**4.8** Where the Plan proceeds to Referendum and the majority of those who vote in the referendum are in favour of the Plan, then the draft Plan must be brought into legal force (adopted) by the local planning authority. The local planning authority is not required to adopt the Plan where the making would breach, or otherwise be incompatible with any EU or human rights obligations.

**4.9** The adopted Neighbourhood Plan would form part of the authority's Development Plan, meaning that it will be a material consideration in determining planning applications and can be used to direct appropriate development.

**4.10** The Neighbourhood Planning process described above places new duties on local planning authorities that will mean additional costs are incurred. In recognition of this, Neighbourhood Planning is supported by a grant from the Department for Communities and Local Government (DCLG) which provides various sums at designated stages in the Neighbourhood Plan process:

- £5,000 per designated neighbourhood area for the first five neighbourhood areas designated.
- £5,000 per designated neighbourhood forum for the first five neighbourhood forums designated.
- £20,000 per neighbourhood plan can be claimed once a date is set for the referendum following a successful examination. A further £10,000 can be claimed in business areas.
- £20,000 can be claimed in relation to Neighbourhood Development Orders for each neighbourhood planning once the date for a referendum on the order has been set.

Appendix C includes the DCLG financial support arrangement for neighbourhood planning in 2016/17.

**4.11** However the Council may designate more neighbourhood areas/forums than the limit and/or the Council's cost of supporting Neighbourhood Plans, including staff resources may exceed this payment. At this time there is no indication from central Government that further funding would be available.

**4.12** Additionally, the grant for examination is only received following the successful examination of the Plan which will mean that Wyre Council will bear any upfront costs prior to receipt of the grant. The grant will only be received if the examination is successful and a date for the referendum is

set therefore, there is a risk that some costs will not be recovered.

- 4.13** There is also the potential risk that the number and complexity of requests to undertake Neighbourhood Planning will exceed the capacity of the Council to provide appropriate support. Additional resource may be required costing in excess of the limited funding available.

## 5. Key issues and proposals

- 5.1** The Government has introduced new duties on local planning authorities to assist communities undertaking neighbourhood planning. This includes local planning authorities undertaking decisions at key stages in the process and being proactive in providing advice to communities about neighbourhood planning. Best practice would also require local planning authorities to submit representations at appropriate stages in the process to assist communities in formulating their Plan.
- 5.2** As part of the Government's review of Neighbourhood Planning, the Neighbourhood Planning (General) Regulations 2015 have amended the 2012 regulations and introduced deadlines for determining Neighbourhood Area Applications.
- 5.3** The proposed scheme of delegation will streamline the decision making process and allow the local planning authority to meet the deadlines set by the Regulations and also allow decisions to be made in a timely manner to avoid unnecessary delay. Appendix B further explains the scheme of delegation at the expected stages where a decision will be required.

<b>Financial and legal implications</b>	
Finance	<p>There are no financial implications arising directly from this report.</p> <p>However, Neighbourhood Planning itself places new duties on local planning authorities that will mean additional costs are likely to be incurred although the timing and scale will not be known until applications are received. Limited funding from DCLG is available to assist councils in discharging their new responsibilities and a further assessment of costs will be undertaken at Revised Estimates.</p>
Legal	<p>The local planning authority is required to accord with the regulations at relevant stages of the Neighbourhood Plan process.</p> <p>The scheme of delegation ensures compliance with the Neighbourhood Planning Regulations.</p>

### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	<b>x</b>
equality and diversity	<b>x</b>
sustainability	<b>x</b>
health and safety	<b>x</b>

<b>risks/implications</b>	<b>✓ / x</b>
asset management	<b>x</b>
climate change	<b>x</b>
data protection	<b>x</b>

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<b>List of background papers:</b>		
<b>name of document</b>	<b>date</b>	<b>where available for inspection</b>
None		

### **List of appendices**

Appendix A: Scheme of Delegation for Neighbourhood Planning.

Appendix B: Explanatory Scheme of Delegation for Neighbourhood Planning – expected stages where a decision will be required.

Appendix C: Department of Communities and Local Government financial support for neighbourhood planning in 2016/17.

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**NEIGHBOURHOOD PLANNING - PROPOSED SCHEME OF DELEGATION, SEPTEMBER 2016**

The Head of Planning Services in consultation with the appropriate Cabinet Portfolio Holder shall be responsible for all planning matters relating to Neighbourhood Development Plans and Orders under The Neighbourhood Planning (General) Regulations 2012 and the Planning Acts as amended, subject to certain decisions which are controversial or which are subject to objections which are not withdrawn.

The exception is the adoption of a Neighbourhood Development Plan or Order, which is reserved for Full Council.

The Head of Planning Services shall be free to refer any matter or decision to the appropriate Cabinet Portfolio Holder or to full Cabinet (as appropriate) for determination. The Head of Planning Services shall ensure that care is taken to identify any case within his/her delegated authority where unusual circumstances or other reasons suggest the desirability of Councillor consideration. To assist in this process, the Cabinet Portfolio holder will be kept up to date of forthcoming decisions on Neighbourhood Planning matters.

(Note: Apart from the making of a Neighbourhood Plan or Order, which is already provided for within the Council's Constitution, these Neighbourhood Planning processes are Executive Functions under the Local Government Act and related Regulations so, it is the responsibility of the Cabinet, rather than the Full Council, to authorise the delegations set out above).

**Explanatory Scheme of Delegation for Neighbourhood Planning – expected stages where a decision will be required**

Decision Required	Process to be undertaken	Proposed Scheme of Delegation	Comments
<p><b>Designation of a Neighbourhood Forum</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 9 -10)</i></p>	<p>Following receipt of the Neighbourhood Forum application, the local planning authority will undertake a six week consultation on the application.</p> <p>Representations submitted to the consultation will be considered when determining the application.</p>	<p>Decision to designate the Neighbourhood Forum is delegated to the Head of Planning Services, unless objections are received and not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>This stage would only apply for non-parished areas that are undertaking Neighbourhood planning.</p>
<p><b>Designation of a Neighbourhood Area</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 6 -7, as amended 2015)</i></p>	<p>Following receipt of the Neighbourhood Area application, the local planning authority will undertake a consultation on the application.</p> <p>Representations submitted to the consultation will be considered when determining the application.</p> <p>The following time limits apply for determining a Neighbourhood Area Application depending upon circumstances:</p> <ul style="list-style-type: none"> <li>• 4 week consultation with further 4 weeks to make a decision (8 week overall limit) – this applies when the</li> </ul>	<p>Decision to designate the Neighbourhood Area is delegated to the Head of Planning Services, unless objections are received and not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Neighbourhood Area applications are expected to be straightforward and submitted by a Parish/Town Council for the whole parish. For such applications, the amendments to the regulations require a decision to be made within eight weeks, this includes a four week consultation period. The proposed scheme of delegation will make it easier for the local planning authority to meet this target.</p> <p>As the majority of Neighbourhood Area Applications are not expected to be controversial, this approach will also prevent</p>

APPENDIX B

	<p>Neighbourhood Area Applications relates to the whole administrative area of a parish council;</p> <ul style="list-style-type: none"> <li>• 6 week consultation with a further 7 weeks to make a decision (13 week overall limit) – this applies when the Neighbourhood Area Application does not relate to the whole parish (and does not cover more than one local planning authority) or where the application is submitted by a Neighbourhood Forum;</li> <li>• 6 week consultation with a further 14 weeks to make a decision (20 week overall limit) – this applies when the Neighbourhood Area Application falls within two or more local planning authorities.</li> </ul>		<p>unnecessary delay in the local planning authority issuing a decision.</p>
<p><b>Signing off the local planning authority's representations on the pre submission draft</b></p> <p><i>Note: This is not a regulatory requirement but is considered best practice</i></p>	<p>The qualifying body is required to notify the local planning authority of the pre submission consultation. It is considered best practice for the local planning authority to submit representation at the pre submission stage to assist in Plan preparation.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Plans are not expected to be controversial and the aim of the local planning authority submitting comments on the pre submission draft is to assist the qualifying body in finalising the submission version for examination. It will also highlight potential areas for improvement to assist in the operation of the adopted Plan.</p>



APPENDIX B

<p><b>Publicising the Plan Proposal and submission to examination</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 16 -17)</i></p>	<p>The local planning authority is required to publicise the submission version when it is satisfied that the Plan submitted is valid and should be accepted and publicised.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan is invalid and should not be published, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The local planning authority need to check that the submission Plan accords with the requirements set out in regulation 15 of the Neighbourhood Planning Regulations 2012.</p>
<p><b>Signing off the local planning authority's representations on the submission draft</b></p> <p><i>Note: This is not a regulatory requirement but is considered best practice</i></p>	<p>It is considered best practice for the local planning authority to submit representation at the submission stage.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Plans are not expected to be controversial. The local planning authorities' representations on the submission Plan will be considered by the independent examiner and representation should address any outstanding areas or concern, this can also include support for the proposals.</p>
<p><b>Whether the local planning authority declines or accepts a repeat proposal</b></p> <p><i>(Schedule 4B of the Town &amp; Country Planning Act 1990)</i></p>		<p>Decision delegated to the Head of Planning Services, unless it is recommended that the repeat proposal should be declined, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>A repeat proposal is one where in the last two years, the local planning authority has refused to take forward a Plan or Order to referendum after examination or where a Plan or Order has failed at referendum.</p>
<p><b>Appointment of an examiner</b></p> <p><i>(Schedule 4B of the Town &amp; Country Planning Act)</i></p>	<p>A suitably qualified independent examiner should be appointed in consultation with the relevant qualifying body.</p>	<p>Decision delegated to the Head of Planning Services, unless the qualifying body objects to the appointment and the objection is not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>Appointment of an examiner is undertaken in consultation with the relevant qualifying body and an objection is not envisaged.</p>

APPENDIX B

<p><b>Actions to take following receipt of an Examiner's report and consideration of modifications.</b></p> <p><i>(Schedule 4B of the Town &amp; Country Planning Act 1990</i></p>	<p>On receipt of the examiner's report, the local planning authority will have to consider the recommendations of the examiners' report, including whether the Plan meets the basic conditions and whether it can proceed to referendum.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>It is envisaged that officers' and the qualifying body will have to jointly consider the recommendations. It will be the local planning authorities decision whether the Plan proceeds to referendum.</p>
<p><b>Whether to make (adopt) a Neighbourhood Development Plan or Order following Referendum</b></p> <p><i>(Section 38A of the Planning &amp; Compulsory Purchase Act, 2004).</i></p>	<p>Adopting the neighbourhood plan/order as part of the Development Plan is a decision that has to be taken by Full Council.</p>	<p>The decision is reserved for Full Council.</p>	<p>Decisions of this nature are reserved for Full Council.</p> <p>The Council needs to determine whether the 'making' of the Plan would be in breach, or otherwise be incompatible with any EU or human rights obligations.</p>



# Department for Communities and Local Government

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9 March 2016

Chief Planning Officers  
Local Planning Authorities (England)

Dear Chief Planning Officer

## **Update on financial support for neighbourhood planning in 2016/17**

Neighbourhood planning is a vital part of the Government's reforms to help local communities play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals.

To support the vital role of local authorities in the neighbourhood planning process, the Department is today announcing updated arrangements for funding local planning authorities. Confirmation of this funding, details of the arrangements for claiming it and relevant frequently asked questions are set out in the Annexes to this letter.

We are continuing to provide support for communities who choose to prepare neighbourhood plans, in the form of grants of up to £9,000. In addition, groups in certain priority areas (including unparished areas, business areas, deprived areas, clusters of parishes and areas of high growth) are eligible to apply for a further £6,000 grant funding and technical support packages (such as assessing housing needs, masterplanning and design, evidence base and policy review, and strategic environmental assessment). Information on how groups can apply for the funding and support is available online at: [www.mycommunity.org.uk](http://www.mycommunity.org.uk)

I would also like to take this opportunity to draw your attention to some clarifications to planning guidance on neighbourhood planning made recently, to clarify how planning applications should be decided where there is a made, or an emerging neighbourhood plan but the local planning authority does not have a five-year land supply of deliverable housing sites. Guidance on 'What evidence is needed to support a neighbourhood plan or Order?' and 'Can a neighbourhood plan come forward before an up-to-date Local Plan is in place?' has been clarified to emphasise the importance of having up to date evidence on housing needs, and to minimise conflicts with emerging Local Plan policies. Advice on the ability of a Parish or Town council to establish an advisory committee or sub-committee has also been updated. The guidance is available online at:

<http://planningguidance.communities.gov.uk/blog/guidance/neighbourhood-planning/>

**RUTH STANIER**  
**PLANNING DIRECTOR**

## Financial support for neighbourhood planning in 2016/17

1. The arrangements for claiming financial support for neighbourhood planning have been reviewed and updated. From April 2016, local planning authorities (LPAs) will be able to claim as follows:

For all areas: LPAs can claim £20,000 once they have set a date for a referendum following a successful examination.

Additional funding is available in certain areas:

Area designation: LPAs can claim £5,000 for the first five neighbourhood areas designated. The limit of five areas applies to the total number of areas designated in the LPA (i.e. it includes areas designated in previous years).

Forum designation: LPAs can claim £5,000 for the first five neighbourhood forums they designate. The limit of five forums applies to the total number of areas designated in the LPA (i.e. it includes forums designated in previous years).

Business areas: LPAs can claim a further £10,000 once they have set a date for a referendum following a successful examination.

Neighbourhood Development Orders (NDOs) and Community Right to Build Orders (CRtBOs): LPAs can claim £20,000 in relation to NDOs and/or CRtBOs for each neighbourhood planning area per year. The claim can be made once the date for the referendum on the orders has been set.

2. In order to help local planning authorities and DCLG manage this in a simple way, we invite you to submit aggregate claims for payment during the months of July and January. All claims need to be submitted via LOGASnet.
3. Payments will be made under section 31 of the Local Government Act 2003 (and in respect of National Parks Authorities under section 72 of the Environment Act 1995 and in respect of the Broads Authority under section 15 of the Norfolk and Suffolk Broads Act 1988<sup>1</sup>).
4. The Q&A at Annex B covers many frequently asked questions. Any other questions should be forwarded to [decentralisation@communities.qsi.gov.uk](mailto:decentralisation@communities.qsi.gov.uk)

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<sup>1</sup> In making these payments, we will ask the national parks authority or the Broads authority to make a payment to the local authority for the work in relation to the referendum it will undertake on behalf of the National Parks Authority or Broads Authority.

## Frequently Asked Questions on neighbourhood planning funding for Local Planning Authorities

### Q1. What is this funding for?

- A. This money is to ensure Local Planning Authorities (LPAs) receive sufficient funding to enable them to meet new legislative duties in relation to neighbourhood planning. Specifically, it covers **the neighbourhood planning duties introduced in the Localism Act 2011 which are to provide advice or assistance; to hold an examination; and to make arrangements for a referendum.**

### Q2. What does “advice or assistance” mean?

- A. The extent of advice and assistance will be different in each area. The legislation requires local planning authorities to provide such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for neighbourhood development plans orders. [Planning guidance](#) states that a local authority should:
- be proactive in providing information to communities about neighbourhood planning
  - fulfil its duties and take decisions as soon as possible, particularly regarding applications for area and forum designation
  - set out a clear and transparent decision making timetable and share this with those wishing to prepare a neighbourhood plan or Order
  - constructively engage with the community throughout the process

### Q3. How do I apply for this funding?

- A. Any LPA supporting neighbourhood planning will be able to claim using LOGASnet.

### Q4. When and how can I submit a claim?

- A. There will be two opportunities to submit claims using LOGASnet each year. There will be windows between 1 and 31 July, and 1 and 31 January. Payments will usually be made in September and March.

### Q5. Why is this money being paid to LPAs and not direct to communities?

- A. LPAs have a duty to support and advise parish councils, neighbourhood forums and community right to build organisations and pay for examination and referendum. We want to ensure that LPAs receive the appropriate funding to enable the fulfilment of this duty in line with new burdens principles.

Information about support available for communities doing neighbourhood planning is at <http://mycommunity.org.uk/programme/neighbourhood-planning/>

**Q6. What about National Parks Authorities and the Broads Authority that are supporting neighbourhood plans?**

- A. National Parks Authorities and the Broads Authority may make claims as above. Payments to National Park Authorities are made under section 72 of the Environment Act 1995 and the Broads Authority under section 15 of the Norfolk and Suffolk Broads Act 1988. In making these payments we will ask the National Park Authority or the Broads Authority to make a payment to the local authority in relation to the referendum it will undertake on behalf of the National Park Authority or Broads Authority.

**Q7. What happens where a designated area crosses the boundary of two local planning authority areas?**

- A. Where a neighbourhood area falls within the area of more than one local planning authority, including a National Park Authority or the Broads Authority, it will be for each authority to decide on who to make the claim and how to share the payment locally. We would expect it normally to be the area with the largest proportion of the neighbourhood area or whichever authority has agreed to lead. However, this may not necessarily be the case if both parties agree otherwise. We would expect the lead authority to share the payment, in such proportions as may be locally agreed, with the other authorities working on the scheme.

**Q8. How much will we be able to claim if we have to hold a business referendum?**

- A. Where a neighbourhood area is considered to be wholly or predominantly business in nature the legislation enables the local planning authority to designate this as a 'business area'. In these areas an additional referendum must take place in which non-domestic rate payers can vote. Where a responsible authority must run two referendums we will make an additional payment of £10,000. This can be claimed at the same time as the £20,000 payment on setting a date for a referendum following a successful examination.

**Q9. How much can we claim for a Neighbourhood Development Order or Community Right to Build Order?**

- A. Where there are successful NDOs or CRtBOs, LPAs can claim £20,000 for each neighbourhood planning area per year. This means that where a parish, neighbourhood forum or community organisation (in the case of CRtB) prepares one or more NDO or CRtBO, the LPA can make a single claim for that area in each year. As with neighbourhood plans, the claim can be made once a referendum date is set.

**Q10. How much can we claim where a neighbourhood plan is reviewed?**

- A. A neighbourhood plan that is reviewed needs to follow the same process of examination and referendum. In such circumstances LPAs can claim £10,000 following the setting of a referendum date.